



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

*271 Cadman Plaza East
Brooklyn, New York 11201*

March 13, 2014

By ECF

Honorable James Orenstein
United States Magistrate Judge
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Phoenix Beverages, Inc. et al. v. Exxon Mobil Corporation, et al.*
12-CV-3771 (Chen, J.)(Orenstein, M.J.)

Dear Judge Orenstein:

The United States respectfully submits this letter to request that depositions noticed to take place this month in this action be conducted in April, or thereafter, when Sandra Levy, the Assistant U.S. Attorney assigned to this case, has returned to the office from medical leave. The United States makes this request with the consent of the defendants, third-party plaintiffs and the third-party defendants. Plaintiff has not consented.

Ms. Levy is on medical leave with the hope and expectation that she will return to the office the latter part of this month. As the only Assistant U.S. Attorney assigned to this complex case, as well an associated matter, *DMJ Associates, L.L. v. Capasso, et al.*, 97-CV-7285 (DLI)(RML), Ms. Levy's presence at depositions is critical to the United States' defense as to third party claims brought against it. Plaintiff has noticed the deposition of Eugene Prashker, for March 18 and March 26, respectively as an individual witness and a Fed. R. Civ. P. 30(b)(6) witness produced by defendant Quanta Resources Corporation. Additionally, plaintiff has noticed the deposition of Sherry Schlangel for March 28. Due to her illness, it is anticipated that Ms. Levy will be unable to participate in either deposition if conducted this month.

Like all parties in this litigation, the United States has a strong interest in moving forward with discovery and, therefore, does not lightly ask for an adjournment. The adjournment request is limited in scope and sought only because Ms. Levy is unavailable due to illness. In consideration of the potential prejudice to the United States, and with the understanding from counsel for the defendants, third-party plaintiffs and third-party defendants that the depositions in question could be scheduled for April or May, the United States submits that its request is reasonable.

The United States thanks the Court for its consideration in this matter.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By: s/Richard K. Hayes
Richard K. Hayes
Assistant U.S. Attorney
(718) 254-6050

cc: All counsel (ECF)